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March 10, 2004

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

RE: *EX PARTE NOTICE – In the Matter of Second Periodic Review of the Commission's  
Rules and Policies Affecting the Conversion to Digital Television, MB 03-15, RM 9832*

Dear Ms. Dortch:

On behalf of Capitol Broadcasting Company, Inc. (CBC), I met with Jordan Goldstein of Commissioner Michael J. Copps' office on Tuesday, March 9, 2004, to discuss EchoStar Satellite LLC's (EchoStar) March 4, 2004 *Ex Parte*. Our discussion focused on two topics outlined in the attached document – requiring Direct Broadcast Satellite (DBS) providers to co-operate technically with third parties for the delivery of local analog and digital broadcast signals in markets that the DBS provider chooses not to serve and why now is not the time to develop a distant digital white area as advocated by EchoStar.

If there are questions relating to this filing, please contact the undersigned.

Best regards,

/s/ Dianne Smith

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Special Projects Counsel

Enclosure

cc. Jordan Goldstein, Office of Michael J. Copps



## Satellite Home Viewer Extension Act – S. 2053

(not introduced in House as of March 1, 2004)

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**CBC Position:** CBC fully supports the Satellite Home Viewer Extension Act (SHVEA) as introduced – simply granting a five-year copyright extension to Direct Broadcast Satellite (DBS) providers to carry distant signals in so-called analog white areas.

**Key Issues:** CBC does not support any amendments at this time, but acknowledges that there are multiple contentious issues between the DBS and broadcasting industries. Should Congress decide to address those issues, CBC encourages Congress to:

- End the unnecessary delivery of distant signals in markets where DBS offers local signals. *If every DBS subscriber or potential subscriber can receive a local signal package, how are they unserved?*
- Stop EchoStar's discriminatory two-dish scheme. *This practice violates the fundamental principle of carry one/carry all by discriminating against some broadcasters, creating two classes of stations within the same market.*
- Require a DBS provider to co-operate technically with third parties for the delivery of local markets not offered by the DBS provider. *With co-operation from the DBS providers, CBC believes that all 210 Designated Market Areas can be served with local analog and digital signals. DBS should not be allowed to act as a "roadblock" to local analog and digital signals.*

CBC does not support the creation of a distant digital white area as advocated by the DBS industry. Currently, EchoStar and DirecTV offer WCBS-DT and KCBS-DT as distant digital signals available to subscribers who receive a waiver from their local CBS affiliate. (*Viacom granted blanket waivers in the 17 CBS O&O markets.*) This is creating numerous problems and, unfortunately, history is beginning to repeat itself:

- Subscribers are confused.
- Broadcasters are being asked to issue waivers – permanently ceding our local digital viewers to New York and Los Angeles, undermining localism. At the February 24, 2004 House hearing, EchoStar's David Moskowitz, speaking for the Satellite Broadcasting and Communications Association, stated that subscribers "*should be able to keep*" their distant digital



signals, even if at a later time they can receive their local over-the-air digital signals.

- Digital white areas are not defined, so broadcasters do not know how to respond reasonably to waiver requests. *(In fact, digital white areas CANNOT be defined until the DTV transition is further along. For example, WRAL-DT, the nation's first commercial digital station, is out-of-core at Channel 53 and will be moving. As a result, our coverage area will shift. A white area today may not be a white area tomorrow.)*
- In order to compete with cable's delivery of digital signals, DBS will once again be tempted to sign-up illegal distant digital subscribers just like they did before they began carrying local analog signals. The result is obvious – postcards from your constituents and lawsuits.
- Distant digital is a free pass for DBS to avoid carriage of local digital stations.

CBC recognizes that there are other related issues that may be addressed, including a “significantly viewed” satellite counterpart to cable. This is an extremely complicated issue that sounds good, but is also fraught with potential for abuse.

*Thank you and for more information:*

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